UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,076	02/15/2002	John R. Hare	POU920020016US1	6860

46369	7590	09/12/2006

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EXAMINER
REFAI, RAMSEY

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/078,076	HARE ET AL.
	Examiner	Art Unit	
	Ramsey Refai	2152	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>22 August 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

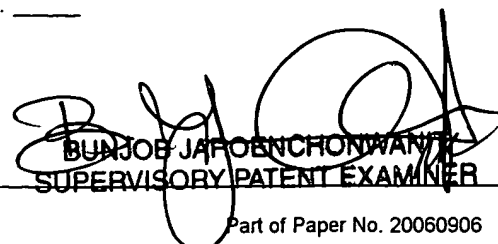   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-4 and 6-19*.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: In the remarks, the Applicant argues in substance:

A) Knop et al fail to teach a quick restart and there is no discussion that stopping at the one node during the quick restart deletes locally stored membership group information.

In response, the Examiner respectfully disagrees. Knop et al teach that a node that becomes inactive is expelled from the group and a new membership is formed without the expelled node. Once the node is active again, the node is informed by the group leader of the updated membership information. (column 8, line 55-column 9, line 31). Although Knop et al fail to explicitly recite the term "quick restart" and since no clear definition of the term is recited in the Applicant's specification, the inactivity and reactivity of node 2 is a quick restart. The Applicant's specification does not clear define the time period that renders a restart "quick" but vaguely states in paragraph 134 states that the term "' quick' to describe the restart is meant to be a relative term, it is quick relative to the timing for node and/or adapter failure detection in a connected network of nodes". Figures 6B and 6D show that membership information for node 2, which is experiencing a "quick restart", is deleted.

B) Knop et al fail to teach at least one other node sends a second message to another node in the membership group, which indicates that the one node is to be expelled from the membership group.

In response, the Examiner respectfully disagrees. Fig 3B teaches that a node informs the group leader of a failure of an upstream neighbor and that a new group needs to be formed without the failed node by sending a DEATH message to the group leader .

C) Knop et al fail to teach that the one node having the quick restart, responsive to receiving a signal from at least one other node of the group membership group, sends a first message, which includes indicia of occurrence of the quick restart at the one node.

In response, the Examiner respectfully disagrees. The Applicant' s specification fails to teach that message sent from the one node indicates an occurrence of a quick restart. The specification teaches that detection of the quick restart from the one node is determined by the another node and not in a message sent from the one node. When the one node that restarted attempts to join the another node, the another node detects that the one node is already a member of the group and determines that since the one node is attempting to join and has lost its group information, a restart has occurred at the one node, thereby concluding that a quick restart has occurred and then expelling the one node from the group. (See Figure 6 of Applicant's specification) This is different than what is being argued, which is that a first message contains an indication of the quick restart. Knop et al however does teach that a node that disappears and is expelled from the group sends a message that indicates that the node in now active after failure, which is a quick restart as explained in the response to argument A above (column 9, lines 5-31).

Therefore Knop et al meets the scope of the claimed limitations.